

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**GEORGE W. GILES**

**APPELLANT,**

**v.  
CARMi FLAVOR AND FRAGRANCE  
COMPANY, INC., ET AL.**

**RESPONDENTS.**

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DOCKET NUMBER WD77952

DATE: September 22, 2015

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Appeal From:

Buchanan County Circuit Court  
The Honorable Daniel F. Kellogg, Judge

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Appellate Judges:

Division Four: Alok Ahuja, Chief Judge, Presiding, Gary D. Witt, Judge and John M. Torrence,  
Special Judge

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Attorneys:

Kenneth B. McClain and Kevin D. Stanley, Independence, MO, for appellant.

Spencer J. Brown, Kansas City, Missouri and Kimberly Ramundo, Cincinnati, OH (Pro Hac  
Vice), for respondents.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**GEORGE W. GILES,**

**APPELLANT,**

**v.**

**CARMi FLAVOR AND FRAGRANCE  
COMPANY, INC., ET AL.,**

**RESPONDENTS.**

No. WD77952

Buchanan County

Before Division Four: Alok Ahuja, Chief Judge, Presiding, Gary D. Witt, Judge and John M. Torrence, Special Judge

Appellant George W. Giles appeals from the entry of summary judgment in favor of his former employer, Respondent Ventura Foods, and several entities that Giles alleged designed, manufactured, and/or sold the product that caused his medical condition, bronchiolitis obliterans, while he was employed at Ventura Foods. Giles worked for Ventura Foods from 1997 to 2003 and exhibited symptoms of the medical condition within two years of his employment. However, he was not given a diagnosis of bronchiolitis obliterans until 2011. Giles argues that the trial court erred in granting summary judgment in favor of Respondents because a genuine issue of material fact remains as to when Giles's injury was "capable of ascertainment" under Section 516.100 and thus when the statute of limitations began to run.

**REVERSED**

**Division Four holds:**

Where two specialists could not diagnose Giles with bronchiolitis obliterans, even though both of those doctors were presented with the possible connection between Giles's symptoms and this medical condition, Respondents failed to establish that the action was "capable of ascertainment" under Section 516.100 as a matter of law.

Opinion by Gary D. Witt, Judge

September 22, 2015

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